



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

TELECOMMUNICATIONS

IN THE MATTER OF APPLICATION OF)
BELL ATLANTIC-NEW JERSEY, INC.)
FOR APPROVAL OF A RESALE)
AGREEMENT WITH SAM ASSOCIATES,)
INC. UNDER SECTION 252 OF THE)
TELECOMMUNICATIONS ACT OF 1996)

ORDER APPROVING
RESALE AGREEMENT

DOCKET NO. TM99050380

(SERVICE LIST ATTACHED)

BY THE BOARD:

I. BACKGROUND

By letter dated May 28, 1999, Bell Atlantic-New Jersey, Inc. (BA-NJ) filed an application (Application) for approval of a negotiated Resale Agreement (the Agreement) between BA-NJ and Sam Associates, Inc. (Sam) (and jointly, the parties) with the Board of Public Utilities (Board) pursuant to Section 252(e) of the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq. (the Act). By letter dated May 25, 1999, Sam authorized BA-NJ to file the application on its behalf.

II. RESALE AGREEMENT

The Agreement, dated as of February 1, 1999, sets forth the terms, conditions and prices under which BA-NJ will offer and provide to Sam telecommunications services available for resale and resale support services within each Local Access and Transport Area (LATA) in which they both operate within New Jersey. Attachment 1 to Exhibit II of the Agreement sets forth a detailed schedule of itemized charges. A key provision of the Agreement provides for BA-NJ to offer its telecommunications services for a wholesale discount of 17.04%, if Sam uses BA-NJ operator services and 20.03%, if Sam provides its own operator services. Other key elements of the Agreement provide for: customers to retain their telephone numbers when they switch to Sam, including Sam customers' primary listings in the White Pages and Yellow Pages (for business customers) directories and directory assistance databases, and the offering of 911 services to all customers. The Agreement shall remain in effect from the effective date through the Initial Term Ending Date of February 1, 2000, after which it shall remain in effect until terminated as provided in the Agreement.

The Agreement provides that to the extent required by applicable law, the BA-NJ operations support systems (OSS) services that will be offered by BA-NJ to Sam shall be the same as the BA-NJ OSS services BA-NJ offers, under agreements approved by the Board pursuant to 47 U.S.C. §252, to other telecommunications carriers that are engaged in the resale of BA-NJ retail telecommunications services pursuant to 47 U.S.C. §251(c)(4).

The Agreement provides that BA-NJ shall have the right to change the prices for such BA-NJ services from time-to-time and to the extent such change is required, approved or permitted by applicable law, including, but not limited to, by regulation or order of the Board, the Federal Communications Commission (FCC), or other governmental entity of appropriate jurisdiction.

III. COMMENTS

By letter dated July 18, 2000, the Division of the Ratepayer Advocate (the Advocate) filed comments on the Agreement. In summary, the Advocate stated that it is satisfied that the Agreement does not discriminate against other carriers and is consistent with the public interest, convenience, and necessity, and therefore recommended that the Board approve the Agreement. Nevertheless, the Advocate urged approval conditioned upon an explicit Board finding that the Board is making no determination regarding BA-NJ's satisfaction of the competitive checklist requirements found in Section 271 of the Act.

IV. DISCUSSION

Pursuant to 47 U.S.C. §252(a)(1), an incumbent LEC may negotiate and enter into a binding interconnection agreement with a carrier requesting interconnection, services or elements without regard to the standards set forth in 47 U.S.C. §251(b) and (c).

47 U.S.C. §252(e)(1) requires approval by the Board of any interconnection agreement adopted by negotiation or arbitration, and further requires the Board to approve or reject the Agreement, with written findings as to any deficiencies. The Act provides that the Board may reject a negotiated agreement only if it finds that:

- (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

[47 U.S.C. §252(e)(2)(A)].

We note that pursuant to 47 U.S.C. §252(e)(4), this Resale Agreement has been deemed approved. Nevertheless, the Board's review of the Agreement in this matter indicates that the Agreement is consistent with the public interest, convenience and necessity, and that the Agreement does not discriminate against telecommunication carriers not parties to the Agreement. Therefore, the Board FINDS that the Agreement meets the standards set forth in the Act, and HEREBY APPROVES the Agreement as presented by the Parties. This approval should not be construed as preapproval of any future petitions for rate recovery of costs incurred pursuant to the Agreement. Our approval does not constitute a determination concerning BA-NJ's obligations pursuant to Section 271 of the Act, although this Agreement will be taken into consideration in that determination. In addition, our approval does not constitute a determination concerning, nor shall the Board be bound by, provisions within this Resale

Agreement regarding the confidentiality of information.

Additionally, the Board DIRECTS the parties to conform to all federal, State and Board statutes and regulations regarding service quality standards and customer relations, as applicable, including, but not limited to, those related to the resale of telecommunications services, the solicitation of resale customers and the submission of primary interexchange and local exchange carrier change orders to local exchange carriers.

Pursuant to 47 U.S.C. §252(h) of the Act, a copy of the Agreement will be made available for public inspection and copying within ten days of the issuance of this Order. Subsequent amendments or modifications of the Agreement are subject to review and approval by the Board.

DATED: 8/30/00

BOARD OF PUBLIC UTILITIES
BY:

(signed)
HERBERT H. TATE
PRESIDENT

(signed)
CARMEN J. ARMENTI
COMMISSIONER

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
SECRETARY